

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

TONYA R. MCCAIN,

Defendants.

Case Number 06-13830

Honorable David M. Lawson

Magistrate Judge Paul J. Komives

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
GRANTING IN PART PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, AND
REFERRING MATTER BACK TO MAGISTRATE JUDGE FOR FURTHER
PROCEEDINGS**

Presently before the Court is the report issued on July 30, 2007 by Magistrate Judge Paul J. Komives pursuant to 28 U.S.C. § 636(b), recommending that this Court grant in part and deny in part the plaintiff's motion for summary judgment. The magistrate judge found that the plaintiff was entitled to summary judgment as to liability but not entitled to summary judgment on the issue of damages. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 8] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's motion for summary judgment [dkt # 5] is

GRANTED IN PART AND DENIED IN PART. The motion for summary judgment is granted with respect to liability and is denied without prejudice as to the issue of damages.

It is further **ORDERED** that the matter is referred back to Magistrate Judge Paul J. Komives for further proceedings pursuant to the order of reference for general case management [dkt # 4].

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: August 22, 2007

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 22, 2007.

s/Felicia M. Moses
FELICIA M. MOSES